

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

In re:

USA GYMNASTICS,<sup>1</sup>

Debtor.

Chapter 11

Case No. 18-09108-RLM-11

**STATEMENT OF SUPPORT OF ADDITIONAL TORT  
CLAIMANTS COMMITTEE OF SEXUAL ABUSE SURVIVORS  
OF DEBTOR'S MOTION FOR ENTRY OF AN AGREED STIPULATION  
AND ORDER ENJOINING THE CONTINUED PROSECUTION  
OF CERTAIN PRE-PETITION LAWSUITS**

The Additional Tort Claimants Committee of Sexual Abuse Survivors (the “**Sexual Abuse Survivors’ Committee**”) appointed in this case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) hereby submits its statement in support of the *Motion for Entry of an Agreed Stipulation and Order Enjoining the Continued Prosecution of Certain Pre-Petition Lawsuits* [Docket No. 372] (the “**Motion**”)<sup>2</sup> filed the above captioned debtor (the “**Debtor**”).

1. The Stipulation is the culmination of over a month’s work by the Sexual Abuse Survivors’ Committee, with the help of state court counsel representing Committee members, in procuring the agreement of attorneys in over 100 prepetition lawsuits to which the Debtor is a party (as listed in the Stipulation, the “**Prepetition Lawsuits**”). The Stipulation, along with the injunction (the “**Stay Injunction**”) sought by the Debtor in adversary proceeding no. 19-50075 (the “**Stay Proceeding**”),<sup>3</sup> temporarily stays all Prepetition Lawsuits with the objective of

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<sup>1</sup> The last four digits of the Debtor’s federal tax identification number are 7871. The location of the Debtor’s principal office is 130 E. Washington Street, Suite 700, Indianapolis, Indiana 46204.

<sup>2</sup> Unless otherwise noted, capitalized terms used in this objection have the meanings ascribed in the Motion.

<sup>3</sup> The Sexual Abuse Survivors’ Committee is filing its *Response of Additional Tort Claimants Committee of Sexual Abuse Survivors to Objections To Plaintiff’s Motion For a Preliminary Injunction Filed by (1) The Karolyi Parties; (2) Richard Carlson; (3) Southern California Acro Team; and (4) Twistars USA Gymnastics Club, et al.* in the Stay Proceeding, which is incorporated herein by reference for all purposes.

allowing Sexual Abuse Claimants, the Sexual Abuse Survivors' Committee, the Debtor, the Debtor's insurers and other parties an opportunity to negotiate a consensual chapter 11 plan without the distraction of litigation.<sup>4</sup>

2. The Sexual Abuse Survivors' Committee anticipates that the Stipulation will create an environment conducive to a negotiated resolution. If the Stipulation and Stay Injunction are not approved, litigation will continue and necessarily embroil the Debtor, at the very least, as a witness in hundreds of cases in multiple jurisdictions. Negotiation of a consensual plan could also be adversely impacted by the continuation of the adversarial relationship inherent between the Sexual Abuse Survivors and the Debtor in the Prepetition Lawsuits. The relationship will be adversarial even if the Debtor is a witness because the Debtor will still be a defendant even though plaintiffs cannot proceed against the Debtor alone because of the automatic stay. As such, approving the Stay and granting the Stay Injunction are a necessary step to calm the waters and allow the parties an opportunity for meaningful negotiations to resolve this case.

3. The Sexual Abuse Survivors' Committee, the Debtor and its insurers are in discussions to move forward with a mediation process to take place after the Bar Date, including selection of a mediator. Part and parcel of laying the groundwork for the mediation is giving all parties an opportunity to prepare for the mediation, including an orderly due diligence process, without the distraction of continued prepetition litigation. Allowing continuation of Prepetition Lawsuits would likely make the mediation process more difficult.

4. The stay of Prepetition Lawsuits also prevents the continued accrual of potential indemnification claims asserted by certain third parties and potential impact of that litigation on the Debtor's insurance proceeds, which could otherwise be used to pay the claims of Sexual Abuse Survivors. The Debtor's estate could also face irreparable harm by risk of judicial

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<sup>4</sup> In addition to the Motion, the Debtor has concurrently filed its *Plaintiff's Motion for a Preliminary Injunction* [Docket No. 5 Adv. Proc. 19-50075] in an adversary proceeding commenced against certain defendants to enjoin the litigation of the Prepetition Lawsuits.

decisions in the Prepetition Lawsuits that are adverse to the Debtor's position.

5. The efforts to obtain consents to the Stipulation have been overwhelmingly successful in that all state court plaintiffs have now voluntarily agreed to be bound. The only parties that have not agreed to the Stipulation are a handful of holdout defendants who have objected to the Stay Injunction in order and/or moved for relief from the automatic stay to enable them to continue their state court litigation without regard to the jeopardy that their parochial interests may create for the Debtor's estate and successful resolution of this case. The Court should grant the relief requested in the Motion and grant the Stay Injunction.

WHEREFORE the Sexual Abuse Survivors' Committee submits that the Motion should be granted.

Dated: April 16, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 16, 2019, a copy of the foregoing *Statement of Support of Additional Tort Claimants Committee of Sexual Abuse Survivors of Debtor's Motion for Entry of an Agreed Stipulation and Order Enjoining the Continued Prosecution of Certain Pre-Petition Lawsuits* was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on April 16, 2019, a copy of the foregoing *Statement of Support of Additional Tort Claimants Committee of Sexual Abuse Survivors of Debtor's Motion for Entry of an Agreed Stipulation and Order Enjoining the Continued Prosecution of Certain Pre-Petition Lawsuits* was served via electronic mail to the following:

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/s/ Meredith R. Theisen

Meredith R. Theisen

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